

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

KEITH ALAN LASKO,

Plaintiff,

vs.

AMERICAN BOARD OF SURGERY,  
 INC., et al.,

Defendants.

Case No. 2:13-cv-01893-JAD-NJK

**Order Granting Motion  
 to Stay Discovery [Doc. 112]**

Pending before the Court is Defendant Mitchell S. Goldberg's motion to stay discovery, pending resolution of Defendant Goldberg's Motion to Dismiss. Doc. 112. Defendant Goldberg filed his motion on May 12, 2014. *Id.* Local Rule 7-2(b) provides that "[u]nless otherwise ordered by the Court, points and authorities in response [to a motion] shall be filed and served by an opposing party fourteen (14) days after service of the motion." Therefore, Plaintiff's response was due no later than May 29, 2014. To date, no response has been filed. Accordingly, the motion may be granted as unopposed. *See* Local Rule 7-2(d). Additionally, the Court has reviewed the motion and finds that good cause exists to grant it.

"The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). The case law in this district makes clear that requests to stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a

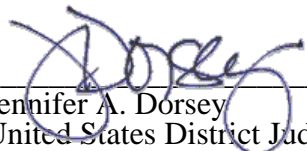
1 “preliminary peek” at the merits of the potentially dispositive motion and, without prejudging the  
2 outcome, believes that Plaintiff may be unable to state a claim for relief. *See id.* at 602–03.

3 The Court finds these factors are present here. First, Defendant Goldberg’s motion to  
4 dismiss based on judicial immunity is potentially case-dispositive as to all claims against him.  
5 Second, the motion to dismiss can be decided without additional discovery. Third, the Court has  
6 taken a preliminary peek at the merits of the motion to dismiss and believes Plaintiff may be unable  
7 to state a claim for relief against Defendant Goldberg.<sup>1</sup>

8 Accordingly, Defendant Goldberg’s motion to stay discovery pending resolution of his  
9 motion to dismiss [**Doc. 112**] is hereby **GRANTED**. In the event that the motion to dismiss is not  
10 granted in full, the parties shall submit a joint proposed discovery plan and scheduling order to the  
11 undersigned within 7 days of the issuance of the order resolving the motion to dismiss.

12 **IT IS SO ORDERED.**

13 DATED June 9, 2014.

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16 Jennifer A. Dorsey  
17 United States District Judge  
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26 <sup>1</sup> The Court has also taken a peek at Plaintiff’s motion to release Defendant Goldberg from the  
27 instant case, in which Plaintiff states that he “will not oppose the argument by the U.S. Attorney for  
28 Judicial Immunity for [Defendant] Goldberg . . .” Doc. 29 at 14. Plaintiff’s own position therefore  
supports the likelihood that he will be unlikely to state a claim for relief against Defendant Goldberg.